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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,233	01/17/2008	Karen Elizabeth Barrett	T3106(C)	8248

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EXAMINER	
DAVIS, DEBORAH A	

ART UNIT	PAPER NUMBER
1655	

NOTIFICATION DATE	DELIVERY MODE
06/23/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentgroupus@unilever.com

Office Action Summary	Application No.	Applicant(s)	
	10/583,233	BARRETT ET AL.	
	Examiner	Art Unit	
	DEBORAH A. DAVIS	1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 March 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *4-17* is/are pending in the application.

4a) Of the above claim(s) *8-15* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *4-7 and 16* is/are rejected.

7)☒ Claim(s) *17* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Applicants' amendment filed 3-17-10 has been received and entered. Currently, claims 4-17 are pending. Claims 4-7 and 16-17 are under consideration for examination. Claims 1-3 are cancelled and claim 4 is currently amended. Claims 16-17 are newly added.

Claim Objections

Claim 17 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The instant claim 4 is drawn to a method of treating neuroendocrine-mediated psychologically induced stress by the administration of the composition as recited therein. Claim 17 does not further limit the claimed method because it is drawn to an in-vitro assay that comprise contacting steps involving testing of derma cells and analyzing one or more markers.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-7 and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over rejected over Shefer et al. (US 2003/0232091) for reasons of record and restated below:

The claims are drawn to a composition and method capable of inhibiting neuroendocrine-mediated psychologically induced stress on the skin of a human or animal which comprises administering to the individual a composition capable of inhibiting glucocorticoid-induced chronic stress in a dermal cell or a cell involved in skin inflammatory responses said method including preparing the composition by incorporation therein, a first substance selected from the group consisting of ginseng Rb1, ginseng Rc, curcumin, 22-OH-cholesterol, ciglitazone, mevinolin, commipheric acid, okadaic acid, licorice extract and mixtures thereof; and a second substance selected from the group consisting of wolfberry extract, shiitake extract, activin, ginseng Rb1, ginseng Rc, curcumin, ciglitazone, commipheric acid, boswellia extract and mixtures thereof, provided that said first substance and substance are different.

The reference of Shefer et al. beneficially teaches a dermatological composition that can comprise gensenoside Rc, curcumin, and licorice as active ingredients. The licorice of the dermatological has anti-inflammatory properties (see paragraph 0107, e.g.). Other anti-inflammatories can be included such as hydrocortisone, which is a glucocoticoid (see paragraph 0098, e.g.). The fist and second substances are different, as required by the instant claims. The composition can be administered orally in a food form can be administered topically in the form of a skin cosmetic, as claimed (see paragraphs 0081, 0110, 0130, and 0133, e.g.).

The reference of Shefer et al. does not expressly teach the active step of administering the composition to an individual.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to administer the cited composition to an individual based on its anti-inflammatory properties for skin care.

From the teachings of the reference, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was prima facie obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the reference, especially in the absence of the evidence to the contrary.

Response to Arguments

Applicant's arguments filed 3-17-10 have been fully considered but they are not persuasive.

Applicant has amended the claims to point out that the method is drawn to a composition and method capable of inhibiting neuroendocrine-mediated psychologically induced stress on the skin of a human or animal which comprises administering to the individual a composition capable of inhibiting glucocorticoid-induced chronic stress in a dermal cell or a cell involved in skin inflammatory responses said method including preparing the composition by incorporation therein, a first substance selected from the group consisting of ginseng Rb1, ginseng Rc, curcumin, 22-OH-cholesterol, ciglitazone, mevinolin, commipheric acid, okadaic acid, licorice extract and mixtures thereof; and a

second substance selected from the group consisting of wolfberry extract, shiitake extract, activin, ginseng Rb1, ginseng Rc, curcumin, ciglitazone, commipheric acid, boswellia extract and mixtures thereof, provided that said first substance and substance are different.

Although applicant argues that the reference of Shefer does not teach the claimed method of administering the composition for the same reason as instantly claimed, however, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). The composition taught by Shefer beneficially teaches a dermatological composition that can comprise gensenoside Rc, curcumin, and licorice as active ingredients. The first and second compositions are different as required by the claims. Therefore, this composition read on the limitations of the claims. Thus, it would appear that the composition of Shefer would be capable of inhibiting neuroendocrine-mediated psychologically induced stress in a dermal cell or a cell involved in skin inflammatory responses.

Applicant also argues that hydrocortisone is the specific glucocorticoid which is used in the current invention to induce chronic stress and in contrasts, Shefer teaches hydrocortisone as an anti-inflammatory. This argument has been fully considered but not found to be persuasive of error.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies

are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

No claim is allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEBORAH A. DAVIS whose telephone number is (571)272-0818. The examiner can normally be reached on 8-5 Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Deborah A. Davis
Patent Examiner, AU 1655
June 2010

/Christopher R. Tate/
Primary Examiner, Art Unit 1655